

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

RICHARD JASON JONES §  
v. § CIVIL ACTION NO. 6:10cv568  
DIRECTOR, TDCJ-CID §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE  
AND ENTERING FINAL JUDGMENT

The Petitioner Richard Jones, proceeding *pro se*, filed this application for the writ of habeas corpus under 28 U.S.C. §2254 complaining of disciplinary action taken against him during his confinement in the Texas Department of Criminal Justice, Correctional Institutions Division. This Court ordered that the matter be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Jones complained of a disciplinary conviction for threatening to inflict harm on an officer, for which he received punishments of 15 days of commissary and recreation restrictions and the loss of 30 days of good time credits. He asserted that his witnesses were not called to testify, the prison officials would not process his grievances, the charging officer's testimony contradicted his report, the charging officer threatened him, and various persons including the TDCJ Executive Director Brad Livingston are killing him as part of a paid deal with the Angelina County Sheriff. Jones conceded that he was not eligible for release on mandatory supervision.

After review of the pleadings, the Magistrate Judge issued a Report recommending that the petition be dismissed because Jones failed to show the deprivation of a constitutionally protected liberty interest, pursuant to Sandin v. Conner, 115 S.Ct. 2293, 2301 (1995). Jones received

a copy of this Report on November 2, 2010, but filed no objections thereto; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

On November 4, 2010, the Court received a letter from Jones saying that he is having problems with the Angelina County Sheriff, whom he says has asked prison officials to have him killed. He says that officers in the prison write false disciplinary cases on him to stop his release and prevent him from buying food stamps. The letter makes no reference to the Report and thus cannot be construed as objections thereto. To the extent that this letter or Jones' complaint raises allegations that his safety is in danger, such a claim is properly brought in a Section 1983 civil rights lawsuit rather than a habeas corpus petition challenging the validity of a prison disciplinary case. *See Cook v. Hanberry*, 596 F.2d 658, 660 n.1 (5th Cir. 1979); Jackson v. Torres, 720 F.2d 877, 879 (5th Cir. 1983).

The Court has carefully reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled application for the writ of habeas corpus be and hereby is DISMISSED with prejudice. The dismissal of this petition shall have no effect upon any civil rights lawsuit which Jones may bring regarding allegations that his safety is in danger. It is further

ORDERED that the Petitioner Richard Jones is hereby DENIED a certificate of appealability *sua sponte*. Finally, it is

ORDERED that any and all motions which may be pending in this civil action are hereby DENIED.

**SIGNED this 10th day of December, 2010.**



MICHAEL H. SCHNEIDER  
UNITED STATES DISTRICT JUDGE